

**MINUTES**  
**MONROE COUNTY CONTRACTORS' EXAMINING BOARD REGULAR MEETING**  
Tuesday, May 14, 2013, 9:30 a.m.  
Marathon Government Center

1. Call to Order/Roll Call:

Rudy Krause called the meeting to order at 9:43 a.m. Present were Gary Centonze, Steve Henson, Bill Miller, Chris Sante, Alesha Scheuerman, Vice-Chair Bill Kelly, Chairman Rudy Krause, Attorney Tom Wright, and Building Official/Secretary Jerry Smith.

Excused were Peggy Bankester (out of town), Alternate Frank Toppino, and Second Alternate Charlie Miller.

2. Agenda Changes:

a. New Business

i. Scott Montgomery and Lloyd Price – review application for examination, approval, and issuance of certificate of competency.

ii. Meeting summary regarding Gainesville Independent Testing Services LLC (GITS) for consideration as an additional examining agency.

3. Approval of Agenda:

Mr. Sante made a motion to approve the changes to the agenda and Mrs. Scheuerman seconded the motion. No nay votes.

4. Approval of Minutes:

a. Special Meeting: April 9, 2013

Mr. Centonze made a motion to approve the minutes as presented and Mr. Kelly seconded the motion. No nay votes.

b. Regular Meeting: March 12, 2013

Mrs. Scheuerman made a motion to approve the minutes as presented and Mr. Kelly seconded the minutes. No nay votes.

5. Next Meeting Date:

a. July 9, 2013

6. Swearing-in of Witnesses to Testify:

Tom Wright sworn in all of those giving testimony

7. Staff Reports:

Postpone until Attorney Granger is present.

8. New Business

a. Election of new chair and vice-chair for the 2013-2014 calendar year

"The board shall elect a chair and such other officers as may be necessary from among their members. Terms of all officers shall be one year beginning with their election, with elections to be held the first meeting in July of each year." (MCC 6-266(b)).

Mr. Centonze made a motion recommending the nomination of the current sitting chairman Mr. Rudy Krause for the 2013-2014 calendar year. There being no other nominations, it passes by acclamation and all in favor; unanimous.

Mr. Centonze made a motion recommending the nomination of the current sitting vice-chair Mr. Bill Kelly for the 2013-2014 calendar year. There being no other nominations, it passes by acclamation and all in favor; unanimous.

9. MCC 6-237 – application; examination; issuance of contractor's certificate

Postpone until Attorney Granger is present.

10. Motion for Imposition of Fines/Liens for Outstanding Citations  
Postpone until Attorney Granger is present.
11. Code Compliance Cases:  
10:03 a.m.

*Note: Attorney Granger arrived at meeting.*

- a. CE12090008      Notice to Appear  
Manuel Menendez, Alejandro Menendez, Eduardo La Casa  
6-202.(8)      Aiding and abetting

Mr. Manuel Menendez was present without legal representation to address the Board and contested the violation. Mr. Menendez is one of three owners. Kathleen Windsor, Code Compliance, was present to address the County; after testimony and evidence was taken from all parties, Mr. Sante made a motion to find Respondent IN violation as cited and Mr. Henson seconded the motion. Motion carried unanimously.

*Penalty* - Mr. Centonze made a motion recommending a fine of \$1,000.00 plus administrative costs of \$400.55, for a total of \$1,400.55, to be paid within 30 days or lien. Mr. Miller seconded the motion. Motion carried unanimously.

Attorney Granger advised the Board that she was in an emergency meeting with DEP required to attend by Christine Hurley and apologized for her tardiness.

12. Staff Reports  
a. Attorney Granger thanked the Board for their participation at the April 9 Special Meeting where the proposed changes to the ordinances were discussed and approved. She advised that the ordinances will be on the BOCC's June agenda with a public hearing in July.
- b. Ronda Norman, Code Compliance Director – Nothing to report

13. New Business  
a. MCC 6-237 - application; examination; issuance of contractor's certificate

i. Mark Page was approved for a general contractor license on May 18, 2006 but never took the exam. He is interested in taking the exam using the Board approval from 2006. Mr. Page petitioned the Board to allow him to take the general construction examination without having to re-file a new application for re-approval.

Currently, there is no time limit in the Code.

Attorney Granger read MCC 6-237 – application, into the record:

- (a) A contractor's certificate of competency shall be obtained in the following manner:

(1) Any person required or desiring to be qualified shall make application on a form approved by the contractors examining board and forwarded to the secretary for review of completeness and accuracy. The secretary will ascertain that all indicated experience in the various trades is fully documented. Completed applications will be reviewed by a quorum of the board at a meeting prior to a scheduled examination. The building official shall notify the applicant of the date and time of the examination.

Attorney Wright asked if the criteria for licensing have changed since Mr. Page's application was approved. Staff, in response to Attorney Wright's question, stated that the criteria for licensing have not changed.

New Business / Mark Page continued

Mr. Santi disclosed that he does know Mr. Page but that he has dealt with over the years. He is not a personal friend.

The application for a General Construction Certificate of Competency license filed with the Building Department on 04/20/2006 was treated as "still grandfathered until the Code changes." If the Code changes and Mr. Page has not yet taken the examination, a new complete application with reference letter(s) will be required. This application originally received Board approval on May 18, 2006.

Mr. Page's application for a general contractor license was **APPROVED** by the CEB to take the General Construction examination without having to file a new application for Board review/approval unless the Code changes.

b. Time Limitation of an Approved Construction Trades Application

CURRENTLY: None

Mr. Henson made a motion recommending that an applicant have two years from the date application is approved to take and pass all required examination(s) for his/her desired discipline. An application will expire two-years from date of Board approval. If in the two years' time the applicant has not passed the required examination(s), it is the applicant's responsibility to submit a new updated application packet for the Board to review and re-approve. Alternatively, an applicant may appeal before the Board due to mitigating circumstances. Mr. Sante seconded the motion with a friendly amendment with the correction/missing sentence that Attorney Granger will be putting in the Code. Attorney Granger advised that she will be adding it between paragraphs #1 and #2 of the Code. Mr. Henson accepted the friendly amendment. Motion carried unanimously.

Attorney Granger and Odalys Mayan will be in charge of drafting the ordinance.

c. Scott Montgomery

Mr. Montgomery will have to file a new application and re-test.

d. Lloyd Price (Waiver of Examination)

Mr. Price petitioned the Board to allow him to obtain his certificate of competency license for landscaping without having to re-file a new application for re-approval or re-test. Mr. Price's landscaping license expired in 1995. In 2007, he re-tested and passed the Business and Law examination but never picked up this the license.

*Note: Mr. Kelly stepped away from the meeting.*

Mr. Sante made a motion recommending Mr. Price's application be approved for a Landscaping Contractor Certificate of Competency as "grandfathered" without having to re-test contingent the Code does change and he picks up his license within one (1) year from today to get license. If the Code changes and Mr. Price has not yet received his license, he will then be required to file a new application for review and approval and re-take the Business and Law examination. Mr. Henson seconded the motion. Motion carried unanimously with Bill Kelly abstaining from voting since he stepped out of the meeting.

*Note: Mr. Kelly returned to meeting.*

e. Time Limitation after Passing an Examination

Mr. Henson made a motion recommending changing the code to allow a candidate to obtain his/her certificate of competency license within one (1) year from the time they successfully completed and passed all required examination(s) or they must re-test. If two (2) or more years have passed since approval, a new application is required. Mr. Sante seconded the motion. Motion carried unanimously.

f. Motion for Imposition of Fines/Liens for Outstanding Citations

County staff would like to ask the Board to include filing fees in their motion for an order in the event the fine is not paid and a lien is recorded. The Board raised the question whether or not the Board has the authority to impose an administrative fee if they have not filed an appeal.

*Attorney Granger read MCC 6-270(c)(e)(g) into the record.*

(c) A citation for a repeat violation shall require appearance before the contractors examining board. A repeat violation is a violation after the imposition of a fine or other disciplinary action for another violation. A violation shall be considered a repeat violation:

(e) The contractors examining board may impose a fine and shall impose an administrative fee pursuant to the provisions of sections [6-201\(d\)\(7\)](#) and [6-201\(e\)\(3\)](#) or this section for any violations of this chapter upon a finding of violation. Upon a finding that such violation has occurred, the board shall deny the appeal, **(the rest of this paragraph was not read into the record - make a finding of violation and impose a fine in an amount not less than the amount listed in the citation and no more than the amount of the fine authorized under this chapter and shall assess an administrative fee. The board, at its discretion, may reduce the amount of the fine or civil penalty but not the administrative fee upon a finding of mitigating circumstances.**

Attorney Wright stated that this is for an individual that was cited and did not appeal or pay the citation within the 10 days. Attorney Wright pointed out that the previous standard orders made no reference for administrative fees.

Attorney Granger read [MCC 6-270\(g\)](#) in the record:

(g) If the fine is not paid within the time period required on the citation or ordered by the board upon appeal, the board's secretary shall cause a notice of lien to be filed in the official records of the county. The lien shall run against any real or personal property the violator may own. The lien may be foreclosed in accordance with Florida Statutes.

After discussion, Mr. Sante made a motion recommending approving the Motion of Imposition of Fines/Liens including administrative costs and filing fees as a bulk item for Citation Numbers CE13030047, CE13040003, CE13040004, CE13020104, CE13030048, and CE13020062 if fine is not paid within 30 days. Bill Kelly seconded the motion. Motion carried unanimously.

*(Final Order New Language: "The Respondent did not contest or file a Notice of Appeal on this citation. The \$500.00 PENALTY provided in the citation has not been paid within 10 days as required by the citation. This Final Order shall be imposed as a lien. The County shall be entitled to recover all costs and administrative fees under the lien in addition to the \$500.00 penalty. This lien shall hereafter constitute a lien upon any real or personal property owned by the Respondent").*

Chairman recessed meeting for 10 minutes at 11:50 a.m.

Chairman reconvened meeting after a brief recess at 12:04 p.m. Mr. Henson not present; all others present.

*Note: Mr. Henson arrived at meeting at 12:05 p.m.*

g. Chairman Addressed the Board

1. House Bill # 0269 – Building Construction & Inspection - It passed both in the House and the Senate in the final days of the Session. The bill will go before the Governor for his consideration in the next few weeks.

If Governor Scott signs the bill, it will increase the maximum civil penalty imposed by local enforcement agencies against unlicensed contractors from \$500.00 to \$2,000.00 and increases the civil penalty that may be charged per day by the local enforcement or local licensing board or designated special magistrate from \$1,000.00 to \$2,500.00. Senate Bill # 1080 / House Bill # 0269 – Building Construction & Inspection

New Business / Item g / Chairman continued

The chairman reiterate, if passed, the local enforcement agencies can go up to \$2,000.00 from \$500.00 and the licensing board could go up to \$2,500.00 from \$1,000.00. Governor must approve.

- \* Allow local building departments to collect delinquent fines and retain 75 percent, remitting 25 percent of fines to Department of Business and Professional Regulation (DBPR).

Chairman asked Attorney Granger if any fines go to DBPR now?

In response to Mr. Krause's question, Attorney Granger stated that right now that is a requirement under the statute now if we are in that process and she believes they are switching up the numbers where the County was entitled to 25 before and the state was entitled to 75. She will have to check.

- \* Clarifies that the Florida Building Commission may not mandate fire sprinklers in single-family homes.

\* Would authorize building site plans to be maintained electronically at the worksite and open to inspection by the local building official or duly authorize representative.

h. Installing a Swimming Pool Lift

Clarification from Board needed to see if a Monroe County Licensed Swimming Pool Contractor could install a swimming pool lift. Building Official advised the Board the Building Department has received their first commercial pool since the state change the law that now they (Building Dept.) are responsible and he could not find any comments on pools from Florida Building Commission. Mr. Centonze offered to send the Building Official literature on the mandate of the Virginia Graeme Baker (Pool & Spa Safety) Act.

Mr. Henson asked who would inspect if the county does not. If an engineer would it? In response to Mr. Henson, Building Official stated that they (County) inspect the structural aspects, the pool, but the state still inspects other aspects in a commercial pool. In a commercial pool, we are now responsible for permitting. Its not part of the law, but one of the things we (County) do is request four copies of the plans and automatically send one copy of the plans to the local DOH office.

After discussion, it was unanimously decided that a Monroe County licensed swimming pool contractor or a general contractor can install a swimming pool lift in a pool sans electric.

i. Issuing a Citation for No Workers' Compensation to an Unlicensed Contractor

Chairman requested update if whether Code Compliance has resumed issuing citations to unlicensed individuals for no workers' compensation insurance. In November 2012, it was advised that Code Compliance would no longer issue citations to unlicensed individuals for no workers' compensation.

*Postpone until Attorney Granger returns to meeting.*

j. Current Sitting Members Terms

Chairman read into the record that Mr. Henson and Mr. Centonze terms are expiring May 19, 2013 and their approvals of appointments are going before the BOCC on May 15, 2013.

k. Proposed amendments to Monroe County Code Sections as follow:

***(This section was discussed and approved as discussed at the Special Meeting of the CEB on April 9, 2013 and going before the BOCC in June with a public hearing in July)***

1. Sec. 6-242. - Reexamination where required for renewal or reinstatement.

- (a) Where a certificate of competency has been revoked or has expired passed a renewal cycle or lapsed for any reason, the contractors examining board:

- (1) May require complete reexamination before a certificate of competency is renewed or reinstated;
- (2) Require a fee of \$500.00 or a fee equal to five years of renewal fees in the certificate holder's particular category, whichever is less; or

(3) Reexamine the applicant if five years have passed after a lapsed certificate of competency.

(b) Where a certificate of competency is no longer issued for a trade other than contractors who have continuously maintained their certificate of competency in good standing, a contractor shall not be permitted to reinstate an expired, revoked, or lapsed certificate. Continuously maintained shall mean they did not let an entire 2 year certificate of competency lapse.

2. 6-198 – Providing clarification of definition of employee;
3. 6-200.(7) - Clarifying the parameters and restrictions of owners acting as their own contractor;
4. 6-270.(b) – Clarifying the difference between an owner as their own contractor and an unlicensed contractor;
5. 6-100.(a) To increase the building permit exception amounts from \$1000 to \$2500 and to remove tool sheds from the listed exceptions; and
6. 6-23 Amending definition of normal maintenance or repair work for consistency

I. CBAA:

1. Vacant Seat: Registered Architect

Attorney Wright addressed the Board and stated that he does not see anything in the Code (6-264(b)) prohibiting Mr. Pike to serve on the Board. In an e-mail from Tom Wright dated April 16, 2013 to Ms. Mayan, Mr. Wright advises that Mr. Pike would be able to serve on the CBAA board. (Copy of e-mail in file)

m. Proposed amendment to MCC 6-202 Prohibited Actions

***(This item was discussed at the April 9, 2013 Special Meeting of the CEB and Board was advised that it will be moved to another section of the Code.)***

At the November 13, 2012 meeting, the Board recommended that the legal team (Steve Williams') work on changing MCC Section 6-202 – Prohibited Actions to include homeowners, owner/builders, and unlicensed persons to the article to read:

It shall be unlawful for any homeowner, owner-builder, or contractor, or unlicensed person as defined by this article, operating anywhere within the county, licensed individually or as a firm contractor, officers, directors, or qualified representative of a firm contractor, to commit any one or more of the following acts or omissions.

***(CODING: Words stricken are deletions; words underlined are additions)***

n. Longshoremen Workers' Compensation Insurance

Discussion

Attorney Wright addressed the Board and stated that he has reviewed the material and in his opinion, the county attorney should be the one addressing the issue. However, after reading a memo from the Charlotte County Attorney's Office on the issue provided to him by the Mr. Smith, he agrees with the Charlotte County interpretation, which is if you are building a seawall or a dock, as a requirement of issuing the permit, his personal belief is, there should be in inquiry as whether the contractor has the 6000F Ryder to workers' comp.

Attorney Wright stated that it is the County's position that you do not need it to build seawalls or docks. It is his opinion that as a condition to issuing a permit to build a dock or seawall or jetty, the County should require the 6000F Ryder to workers' comp.

Old Business / Longshoremen Insurance Discussion continued

Attorney Wright addressed another question asked about regarding Jones Act. After research, he stated that he found that Jones Act is personal injury action for seaman, people that work on vessels. Longshoremen's is a comp act – a type of workers' compensation. It covers different things. The Florida Ryder that covers longshoremen's goes beyond longshoreman's because (inaudible) is navigable waters; the Florida Ryder will apply whether navigable or non-navigable water

Mr. Smith stated that he does not agree with Monroe County current policy regarding longshoremen insurance. The County currently does not enforce it nor checks to see if a contractor has it prior to the issuance of a permit. The County currently requires the homeowner and contractor to sign the Dock Affidavit form, where it advises the homeowner this type of insurance may be required and your contractor may not have it.

Mr. Krause read into the record an e-mail from Laura Carroll (County Staff) to Mr. Smith asking Mr. Smith to please call the homeowner "please call Philip Waynick. He is applying for a permit to repair his boatlift and he has questions about his contractor (name withheld) on insurance liability for longshoreman, harbor work, and the contractor said he had to sign an order in order to get the permit issued. He's looking for clarification. He feels the contractor should have the insurance. That Monroe County should be monitoring the contractor's insurance." Mr. Krause stated that he realizes the County's position on this issue. However, asked if this is something that Department of Business and Professional Regulation (DBPR) is enforcing and if they can get involved.

Attorney Granger, in response to Mr. Smith and Rudy Krause, stated that there is a big difference between what the county can do in requiring it (longshoremen) and what the County can do in enforcing it. Under the Longshoreman Act, not having it is a criminal violation that carries fine up to \$10,000.00. The federal government has not given the local government the power to police this. If it is a state mandate, and after researching it this morning, it is, now a requirement that anybody doing this type of work in Florida carry this type of insurance – longshoreman's. They are calling it under the definition of pile driving. Where she sees the enforcement is that we should not be releasing permits to somebody for a dock that does not have it. But her legal question is, what if, if she has to read this in relation to the new law that has been passed that says the county can longer hold a permit for any other agency action. However, she does not believe that workers' compensation would fall into that any other agency action, but she needs to read more.

Attorney Granger read MCC 6-220 into the record stating that, "6-220 gives Jerry the power to immediately suspend a local certificate of competency for failing to have insurance policies required under this article and then to report it to you all (CEB) for revocation action." To summarize, Attorney Granger stated that is what should be happening. If somebody comes in for a permit, they don't have the proper workers' comp, we should not be giving them a permit and we also should be suspending their privileges here if they hold a local certificate of competency and then reporting it to you whether you want to revoke their license for not having it. That's how the code sets it up.

In response to Mr. Krause, Mr. Smith stated regarding the e-mail that Mr. Krause read earlier on the record regarding the boatlift contractor; she (the contractor) actually has (one of the few contractors) all the necessary insurances including longshoreman, harbor worker. As a result, he made the executive decision not to have the contractor and homeowner sign the Dock Affidavit since she has all the necessary insurances.

Mr. Smith responding to Attorney Granger, stated that "if we are now going to require the insurance, I don't necessarily think it's fair from this day forward for somebody to come in and wants to pull a permit and they have a competency certification to say, oh well, now you do not have the insurance today. Now not only I'm I not going to issue you the permit I'm going to turn you in to the board and see if I can suspend your permitting privileges and try to take your license." I would rather not issue the permit and give them the opportunity to get the insurance.

Attorney Wright stated that there is one exemption to the longshoremen insurance. The exemption does not apply to a sole practitioner/proprietor, one person that does not work under the direction of anybody else.

In conclusion, after discussion, Attorney Granger was asked to research the matter and return with her findings.

### HISTORY

At the January 8, 2013 CEB meeting, staff advised the Board of Attorney Williams' findings: Attorney Williams recommends following the recommendation of Attorney Pedro Mercado's January 30, 2007 findings until new or contradictory information is provided or discovered. Attorney Granger agreed with Attorney Williams' recommendation.

At the January 8, 2013, Steve Henson asked Attorney Wright to research Attorney Mercado's January 30, 2007 decision on longshoremen insurance. Attorney Wright stated that he would look at Attorney Mercado's memo and then give his interpretation at the next meeting.

At the November 13, 2012 CEB hearing, Rudy Krause inquired about whether the Building Department could require/enforce a contractor to show proof of USL&H insurance and/or Jones' Act for any work adjacent to or over the water prior to permits being released as regular workers' compensation does not cover work along the water, and longshoreman insurance does not cover building a house, only work adjacent to water. Moreover, Jones' Act covers work over the water. At the meeting, the Board reviewed the Dock Affidavit currently in use by the County. The Board asked Attorney Williams (sitting in for Attorney Granger) to research the matter and to return with his findings.

#### 14. Department of Business and Professional Regulation Case Status

a. DBPR Complaint Number: 2013006172 CE12110117 Sean L. Lilly  
CEB 01/08/13: Case withdrawn

DBPR Status: Case closed

b. DBPR Complaint Number: 2013006160 CE12120017 Eric F. Salazar  
CEB 01/08/13: Not in violation

DBPR Status: Case closed due to insufficient evidence

#### 15. Issuing a Citation for No Workers' Compensation to an Unlicensed Contractor

##### a. Chairman

Requesting update if whether Code Compliance have resumed issuing citations to unlicensed individuals for no workers' compensation insurance. In November 2012, it was advised that Code Compliance would no longer issue citations to unlicensed individuals for workers' compensation.

Attorney Granger, in response to Mr. Krause, stated it should be reported to the workers' compensation agency. They have not funneled the policing powers to the local level. If an inspector stops a job, they ask for workers' compensation. The directive (of no longer issuing a citation for no workers' compensation) came from GMD Christine Hurley.

#### 16. Adjourned @ 1:00pm

#### 17. Construction Trades Application Review

#### 18. Recording closed.

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Odalys Mayan, License Coordinator

To request a copy of this hearing, please visit Monroe County website at [www.monroecounty-fl.gov](http://www.monroecounty-fl.gov) > Residents > Channel 76. <http://fl-monroecounty.civicplus.com/index.aspx?nid=121>

The Board approved the Minutes on July 9, 2013 [☒] "as submitted" or [☐] "as amended."